

Subject: WSJ - Big Tech to Appear Before Congress on Wednesday

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Coverage on the eve of the hearing is focused on the executives' prepared testimony with only one Bloomberg story exclusively dedicated to Tim's testimony. Reports continue to reflect a fascination with Bezos's first appearance before Congress with Politico headlining one of its stories, *"Why Amazon may have the most to lose from tech's Hill showdown."* There's growing skepticism of whether the hearing will be effective or lead to meaningful outcomes. In another story, **Politico** reports Republican committee staffers are accusing Democrats of harboring "predetermined conclusions" about the outcome of an investigation that Congress is "ill-equipped" to carry out.

In an interview with **The Wall Street Journal**, Chairman Cicilline reiterates his intentions for the hearing, arguing "These platforms have been allowed to run wild and free from really any constraints. The responsibility we have is to make clear what the impacts are of the lack of competition in the digital marketplace." Rep. Ken Buck said "They are [dealing with rival companies] in a way that's designed to reduce competition. As it appears to me now, there's a need for action and for updating the law."

The New York Times Editorial Board suggests questions committee members should ask, listing only three for Apple as compared to longer lists for the other companies:

— Why does Apple permit only its own app store on iPhones?

— Developers are generally required to offer their in-app purchases and paid subscriptions through Apple's App Store, rather than on their own websites, where they may avoid Apple's commissions. Apple has threatened to remove apps that don't abide. How is this in the best interest of consumers and app developers?

— Some app developers have alleged that Apple uses the detailed data it collects about app downloads to copy their ideas and that the company favors its own apps in searches. Is this true? If so, how does the company defend such practices?

Here's a closer look at some of the angles from today's coverage:

— Adding to the dog pile on Bezos, **Recode** notes it is "long overdue" for the executive to appear before Congress, given the "increased media scrutiny" of his company's competition with sellers on its own platform and its track record on labor issues, as well as "Bezos's staggering personal net worth." **CNET** notes Bezos at first balked at the hearing, but "relented" after Rep. Cicilline "threatened a subpoena." **Politico** says the company has "steadily attracted ire from both the right and left in recent years for its uncommon influence over the way much of America lives."

— On his personal website, the former Amazon executive, **Tim Bray**, who has been featured in many recent reports about the company, argues for breaking up Amazon, Facebook, and Google, but makes no mention of Apple.

— In a preview of the hearing that focuses equally on each of the four companies, **The Financial Times** speaks with Dan Volach, co-founder of Blix, who says "We call this 'a thousand different cuts' — it's not that there's a single tactic that Apple uses, there are 1,000 different things Apple does to control the user experience," and allegedly commit "patent infringement and unlawful monopolisation."

— In **Protocol**, Tim McSweeney of Epic Games reiterates his past complaints regarding Apple, arguing that "to say that the fact that they have some costs justifies taking 30% of a company's revenue and preventing other companies from competing with them is absolutely abhorrent." Sweeney also criticized Google's practices, which he says make it harder for Android users to sideload apps instead of going through its official marketplace.

— In **Stratechery**, Ben Thompson recommends questions lawmakers should be prepared to ask executives. For Apple, his questions include "do you believe that Apple has been adequately compensated for its role in making smartphones the most indispensable devices in people's lives," "does Apple deserve more revenue from App developers, including those offering free apps," and "why doesn't Apple simply charge developers directly for the cost of running the App Store?"

— **The Markup** reports that in an examination of more than 15,000 recent popular queries, it found that Google "devoted 41 percent of the first page of search results on mobile devices to its own properties and what it calls 'direct answers,' which are populated with information copied from other sources, sometimes without their knowledge or consent."

— On **CNBC**, Bill Gates says "I wish [the CEOs] well" tomorrow. Asked if there is enough competition in the tech world today, he claims "over time, the tech world is naturally very competitive...I do think people underestimate that natural competitive forces do come into this space."

[Statement by Jeffrey P. Bezos](#)

[Statement by Sundar Pichai](#)

[Statement by Mark Zuckerberg](#)

[CNBC](#)

[Bloomberg](#)

[Yahoo! Finance](#)

Center for American Progress - [Using Antitrust Law To Address the Market Power of Platform Monopolies](#)

WSJ - [Big Tech to Appear Before Congress on Wednesday](#)

NYT Editorial - [Four of the World's Wealthiest Men Are Preparing for Battle](#)

Bloomberg - [Apple's Cook Says App Store Opened 'Gate Wider' for Developers](#)

Bloomberg - [Google CEO Cites Long List of Search Rivals in Antitrust Defense](#)

Politico Pro - Republicans tear into panel's Democrats on eve of major tech hearing

Politico Pro - Amazon's Bezos: The world needs giant companies too

Politico Pro - Why Amazon may have the most to lose from tech's Hill showdown

Politico - [Zuckerberg: Facebook has 'more to do' on fighting disinformation](#)

Reuters - [App Store chief says Apple aimed to level playing field for developers](#)

Washington Post - [Bezos touts Amazon's customer obsession in testimony ahead of House hearing](#)

Financial Times - [Big Tech goes to Washington](#)

CNBC - [Bill Gates: Lies spread faster than facts on social media, which is hard to police](#)

CNBC - [Zuckerberg will defend Instagram, WhatsApp acquisitions before Congress](#)

Recode - [Congress will finally grill Jeff Bezos. It's about time.](#)

CNET - [Jeff Bezos, the press-shy billionaire, to face the harsh spotlight of Congress](#)

Protocol - [Fortnite maker Tim Sweeney blasts Apple's revenue cut and competitive practices as 'absolutely abhorrent'](#)

The Markup - [Google's Top Search Result? Surprise! It's Google](#)

Om - [Why Tech CEOs in DC is a waste of time](#)

The Hill - [Three questions the House should ask about antitrust and Section 230](#)

Roll Call - [Big Tech antitrust hearing could be colossal — or mere theater](#)

Tim Bray - [Not an Amazon Problem](#)

WSJ - [Big Tech to Appear Before Congress on Wednesday](#)

In rare joint appearance, the CEOs of Amazon, Apple, Google and Facebook are to testify by video at a House antitrust hearing

Big Tech will come under the glare of a national spotlight Wednesday, as four of its leaders face questions from members of Congress aiming to rein in what they believe is excessive power in the hands of a few giant companies.

The chief executives— Amazon Inc.’s Jeff Bezos, Apple Inc.’s Tim Cook, Facebook Inc.’s Mark Zuckerberg and Google’s Sundar Pichai—are set to appear before the House Antitrust Subcommittee investigating the market dominance of online platforms.

Their testimony could help build public pressure for government action, especially if the back-and-forth with lawmakers raises new concerns about the way the big technology companies operate.

“These platforms have been allowed to run wild and free from really any constraints,” Rep. David Cicilline (D., R.I.), the subcommittee chairman, said in an interview. “The responsibility we have is to make clear what the impacts are of the lack of competition in the digital marketplace.”

For the CEOs, it is a chance to make the case that their success derives not from monopoly power, but from their ability to meet consumer needs.

In statements released late Tuesday, Mr. Bezos, Mr. Zuckerberg and Mr. Pichai, who is also CEO of Google’s parent Alphabet Inc., emphasized the competition their companies face, as well as their contributions to the U.S. economy.

“Although people around the world use our products, Facebook is a proudly American company,” Mr. Zuckerberg said. “We believe in values —democracy, competition, inclusion and free expression—that the American economy was built on.”

Mr. Bezos cited his own upbringing, saying it taught him grit and self-reliance, and cited competition Amazon faces from retailers in the U.S. and globally.

Mr. Pichai underscored Google’s numerous contributions to helping make consumers and small businesses more efficient and competitive, particularly during the coronavirus pandemic.

All the CEOs except Mr. Bezos have previously appeared before Congress. While it isn't uncommon for executives from an industry to testify together—big bank leaders did so last year—it is rarer for a congressional inquiry to come at such a high point in an industry's success. As of Monday, the four companies and Microsoft Corp. represented the five most valuable U.S. companies.

Democrats have generally been most critical of the market power of big technology companies, but some Republicans have also expressed concerns—including whether existing antitrust laws are outdated in the internet age.

In dealing with rival companies, some tech giants often act in a predatory fashion, said Rep. Ken Buck (R., Colo.). "They are doing it in a way that's designed to reduce competition," Mr. Buck said in an interview. "As it appears to me now, there's a need for action and for updating the law."

Other Republicans on the subcommittee are more likely to focus on what they view as anticonservative bias among some of the platforms, a charge the companies generally dispute.

Despite the hearing's topic, lawmakers can ask whatever they wish. Both parties have criticized how the companies regulate content on their platforms, with Republicans often charging censorship and many Democrats worried about foreign election interference.

The format of Wednesday's hearing could work to the advantage of the witnesses. The executives will testify simultaneously rather than individually—an outcome the companies sought—which could blunt sustained pressure on any one witness.

It will also occur via video-chat because of the coronavirus pandemic. Instead of a crowded hearing room, the CEOs will testify from a place of their choosing.

At the same time, the hearing comes with the companies under scrutiny by one or more of the authorities empowered to enforce antitrust laws: the Justice Department, Federal Trade Commission and state attorneys general. The subcommittee has been running its own yearlong probe and lawmakers have more than one million documents gathered from the companies and their competitors, including the executives' own emails, congressional aides say.

All that could make the questioning feel more like an interrogation. Rep. Pramila Jayapal (D., Wash.), who sits on the panel, said members have spent hours in briefings about the companies and might conduct dry runs practicing their questions.

Staffers have told outsiders the hearing could last five hours or more, with each lawmaker having multiple opportunities to ask questions. "We don't want anyone to feel left out," Ms. Jayapal quipped.

The CEOs' preparations have included speaking with lawmakers, as is typical for high-profile hearings. Mr. Cicilline said last week he had conversations scheduled with Messrs. Zuckerberg, Cook and Pichai.

Matt Perault, a Duke University professor who testified before the subcommittee last year while working at Facebook, recalled preparing with hours of talking-point briefings and mock interrogations. He remembered receiving this advice: “It’s basically impossible to win. You’re trying not to lose.”

Mr. Zuckerberg views the stakes for the hearing as high for himself and for Facebook, and has been preparing with a tight circle of confidants and congressional experts, according to people familiar with the efforts. Among the concerns, these people said, are questions about the potential divestiture of prime assets Instagram and WhatsApp, and about the perception that Facebook lacks the ability to govern its sizable platforms.

Facebook faces multiple antitrust probes focusing in part on its acquisition of potential rivals. None of the investigations appears to be on a fast track, although the FTC is laying the groundwork for depositions of company executives.

Amazon’s retail opponents have been lobbying lawmakers to ask Mr. Bezos about counterfeit products, competition with third-party sellers on the Amazon marketplace, and other issues. Amazon initially resisted agreeing to let Mr. Bezos testify before Congress, according to people familiar with the matter. The company relented after senior lawmakers publicly demanded he testify, citing a Wall Street Journal report in April that Amazon employees used data from the platform’s sellers to develop competing products.

The FTC and some U.S. states have met with Amazon critics to discuss its market power, according to people familiar with the matter, but neither the company nor the regulators have disclosed a formal investigation.

The antitrust probes into Google are the most advanced, with the Justice Department expected to file suit this summer. Investigators have focused on the company’s dominance of online advertising and search, both topics likely to come up Wednesday.

Apple also resisted personal testimony by Mr. Cook, according to a person familiar with the matter. He has sought to distinguish Apple by emphasizing that its business model is less reliant on consumers’ personal data.

The Justice Department is probing Apple’s App Store practices, people familiar with the matter have said. Rivals say the company acts anticompetitively in the store, extracting unfair payments and favoring its own products. Last week, Apple promoted a study concluding the fees app developers pay are in line with those charged elsewhere.

Earlier public hearings offer clues about evidence lawmakers might use to put the CEOs on the spot. At a January congressional hearing with smaller companies, the founder of mobile-phone accessory maker PopSockets LLC said he had evidence of Amazon bullying third-party sellers.

Columbia University law professor Timothy Wu, who has called for breaking up Facebook, urged the lawmakers last summer to subpoena Mr. Zuckerberg’s emails discussing the 2012 acquisition of Instagram—a request that was among those sent to the company months later.

Bloomberg - [Apple's Cook Says App Store Opened 'Gate Wider' for Developers](#)

Apple Inc. Chief Executive Officer Tim Cook will tell U.S. lawmakers probing his company's market power that the iPhone maker's App Store has opened the "gate wider" for developers and doesn't stifle competition.

In a prepared opening statement for Wednesday's hearing in the House antitrust subcommittee, the longtime Apple executive positions the Cupertino, California-based technology giant as a "uniquely American company" that does "not have a dominant market share in any market where we do business." He cited Google, Samsung Electronics Co. and LG Electronics Inc. as examples of competitors in the smartphone market.

"As much as we believe the iPhone provides the best user experience, we know it is far from the only choice available to consumers," Cook's testimony reads. Critically, he says that while Apple believes regulatory scrutiny is reasonable, the company will "make no concession on the facts," and disputes the characterization that Apple is anti-competitive.

"After beginning with 500 apps, today the App Store hosts more than 1.7 million -- only 60 of which are Apple software," Cook says. "Clearly, if Apple is a gatekeeper, what we have done is open the gate wider. We want to get every app we can on the store, not keep them off."

Regarding concerns that Apple takes too large a commission from developers who sell through the App Store, Cook says that the store was launched in 2008 to mimic a high-end department store with a carefully curated selection of products. He also says the store is unique in its pricing structure and offers a better option than what previously existed for developers.

"When the App Store was created, the prevailing distribution options available to software developers at the time did not work well," Cook says in his testimony. "Brick-and-mortar stores charged high fees and had limited reach. Physical media like CDs had to be shipped and were hard to update."

In the remarks, Cook says that the "vast majority of apps on the App Store" provide their developers with a 100% revenue share, and Apple's 15% to 30% cut beat the boxed software industry and is competitive with alternatives. He also said the revenue share has evolved.

"In the more than a decade since the App Store debuted, we have never raised the commission or added a single fee. In fact, we have reduced them for subscriptions and exempted additional categories of apps," Cook wrote. "The App Store evolves with the times, and every change we have made has been in the direction of providing a better experience for our users and a compelling business opportunity for developers."

Wednesday's hearing, at noon Washington time, will be before the House Judiciary subcommittee focused on antitrust. Cook will be questioned along with the CEOs of Facebook Inc., [Amazon.com](#) Inc. and Google parent Alphabet Inc.

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Politico Pro - Republicans tear into panel's Democrats on eve of major tech hearing

Republican staffers on the House Judiciary Committee are blasting the panel's management of Wednesday's high-stakes hearing into the tech industry, according to a GOP memo obtained by POLITICO — accusing Democrats of harboring "predetermined conclusions" about the outcome of a Silicon Valley probe that Congress is "ill-equipped" to carry out.

The GOP staffers also call for making conservative allegations of ideological bias a major focus of the hearing, whose stated purpose is to examine complaints of antitrust abuses in the biggest U.S. tech companies.

The Republican staffers prepared the lengthy memo for a Judiciary antitrust subcommittee hearing in which the CEOs of Facebook, Google, Amazon and Apple will testify together for the first time, a historic collision between the power centers of Washington and Silicon Valley. The document points to some glaring fissures in the antitrust panel's probe, despite the widespread scrutiny the tech industry's practices have drawn from lawmakers of both parties, as well as the Trump administration's regulators and authorities in Europe.

The memo also points to some of the roadblocks that may lie in wait for attempts to crack down on the tech companies through legislation — a possible sign of good news for the industry.

The Republican staffers even raise doubts about future cooperation for the panel's probe, which for more than a year has shown rare signs of bipartisan cooperation.

“Though this investigation began as a bipartisan endeavor, the majority’s approach is raising grave concerns about whether it can continue on that basis, or whether it simply reflects the majority’s efforts to promote predetermined conclusions under an unearned banner of bipartisanship,” the memo reads.

The Republicans also argue that Congress' probe is duplicative, given that President Donald Trump’s Justice Department and the Federal Trade Commission are already pursuing investigations into the four tech giants.

“The legislative branch is unnecessarily taking on work for which it is ill-equipped,” the memo says. “Even if this hearing suggests that any of these companies have violated antitrust laws, that would arguably not establish systemic problems with current antitrust laws. Changing laws in response to such findings would be premature.”

And it lists GOP allegations of bias in Silicon Valley — charges the tech giants deny — as a top theme for the hearing, which Democrats had scheduled to home in on charges of anticompetitive conduct by Amazon, Google, Facebook and Apple. Democrats, including Judiciary Chair Jerry Nadler of New York, have dismissed the bias allegations as baseless and politically driven.

“Political bias in big tech should be decried, but antitrust won’t solve it,” reads the heading of one section of the memo.

The memo also argues that the global coronavirus pandemic is a reason for Congress to proceed with caution on new antitrust legislation.

“Congress should arguably act with special deliberation as the economy seeks to recover from the effects of COVID,” the memo reads.

Russell Dye, a spokesperson for the committee’s Republicans, blamed Democrats for the release of the document.

“It’s truly unfortunate that an internal document related to a sensitive congressional investigation was leaked to the press the evening before a seminal hearing on antitrust law,” he said in a statement. “The Democrats are clearly trying to undermine what was supposed to be a bipartisan investigation.”

A spokesperson for subcommittee Chair David Cicilline (D-R.I.) declined to comment.

Judiciary’s top Republican, Rep. Jim Jordan of Ohio, has hammered committee Democrats for not hosting the blockbuster session at the full committee level, which would give more members a chance to grill the CEOs.

And he made a last-minute plea for the committee to add Twitter CEO Jack Dorsey to the hearing line-up. Republican lawmakers are eager to question Dorsey about the social media company’s handling of Trump’s tweets. The company offered the committee a briefing instead of his testimony, according to a source familiar with the plans, who spoke anonymously to discuss private deliberations.

The split over Wednesday’s hearing is the latest instance of GOP Judiciary members taking issue with Democrats’ leadership of the tech investigation. Two other top Republicans accused Democrats in a February letter of having “pre-conceived conclusions that America’s large tech companies are inherently bad.” Cicilline disputed the assertion at the time.

Despite the recent rebukes, other GOP lawmakers on the committee have continued to laud its Democratic leadership for their bipartisanship in the investigation. “I’m very impressed with the bipartisan and cooperative nature of the process that we are going through,” Rep. Ken Buck (R-Colo.) told POLITICO in an interview last week.

And a number of the committee’s actions in the investigation have featured backing from both Democrats and Republicans, including a May letter demanding that Amazon CEO Jeff Bezos testify before the panel.

Buck added that he expects bipartisan buy-in for the report the committee is expected to issue at the conclusion of its investigation.

“Everything that I know about the drafting of that report indicates to me that it will be bipartisan and very thoughtful in its approach and therefore I do not foresee any objections,” he said.

Parts of the memo echo the views of the Chamber of Commerce, America's biggest business lobby, which counts Apple, Amazon, Facebook and Google as members. The Chamber launched a website Tuesday making many of the same points.

Many of the memo's footnotes cite Republican antitrust officials, including former FTC chairs Tim Muris and Maureen Ohlhausen; former FTC Commissioner Joshua Wright; and Deb Garza, a former DOJ antitrust official. Muris has represented Facebook and Intel, while Wright's clients include Google and Qualcomm. Wright and Muris both teach at George Mason University's law school. Wright helms the law school's antitrust institute, which has received funding from Google and Amazon, according to a New York Times report.

Garza, who also helmed a congressionally appointed 2007 panel on modernizing antitrust, is a partner at Covington & Burling, which frequently represents Facebook, including in its deal to purchase WhatsApp.

The memo's conclusions — that U.S. antitrust laws are working and don't need to be changed for the digital age — match the traditional Republican views on antitrust, and indicate that any legislative proposals the panel's Democrats seek to include in the investigation's final report may have difficulty gaining broad bipartisan support.

Politico Pro - Amazon's Bezos: The world needs giant companies too

In his first-ever appearance before Congress, Amazon CEO Jeff Bezos offers a message his fellow tech CEOs will like: Big is good.

“Just like the world needs small companies, it also needs large ones,” Bezos plans to tell a House Judiciary panel Wednesday, according to written testimony viewed by POLITICO. “There are things small companies simply can't do. I don't care how good an entrepreneur you are, you're not going to build an all-fiber Boeing 787 in your garage.”

Bezos, who founded the e-commerce giant out of his parents' garage in 1995, argues in his prepared testimony that Amazon's size allows it to serve customers through a variety of innovative products while paying all workers at least \$15 an hour and taking on social problems like climate change and homelessness. (Bezos didn't note that those employees got their salary bump after sustained pressure from Sen. Bernie Sanders (I-Vt.) and other Hill progressives.)

It's Bezos' first time testifying on Capitol Hill, but he won't be alone. The CEOs of three other tech giants will join him in testifying in front of the House Judiciary Committee's antitrust panel: Sundar Pichai of Google, Mark Zuckerberg of Facebook and Tim Cook of Apple.

Bezos will most likely face bracing questions from Democrats, including the panel's chair, Rep. David Cicilline (D-R.I.). Cicilline has made the company's growing dominance in the retail sector a key focus of the subcommittee's wide-ranging probe into how U.S. antitrust laws work — or don't — to protect competition in digital markets.

The Amazon founder may take a little less heat from Republicans, who have indicated that they will zero in on Facebook and Google over allegations of anti-conservative bias. And Bezos' big-is-good argument — which Zuckerberg also makes in his own prepared remarks for the hearing — is largely compatible with the free market ethos most congressional Republicans hold.

Bezos plans to argue that Amazon is only a small player in the competitive \$25 trillion global retail market, an effort to rebut claims that the company dominates U.S. markets and should be reined in.

“Every day, Amazon competes against large, established players like Target, Costco, Kroger, and, of course, Walmart— a company more than twice Amazon's size,” Bezos says in his prepared statement. “Regardless of how the best features of ‘online’ and ‘physical’ stores are combined, we are all competing for and serving the same customers.”

The tech CEO's written statement doesn't address the biggest controversy he is likely to face questions on: how Amazon uses data from third-party sellers who use its marketplace. An Amazon executive told the panel last year that the company doesn't look at seller data when deciding what products to offer through its in-house brand, Amazon Basics — a claim a Wall Street Journal investigation later reported to be untrue. House Democrats have raised concerns that Nate Sutton's testimony misled Congress about Amazon's data practices.

Amazon has said it opened an investigation after the Journal's story.

Politico Pro - Congress looks to prove it can keep Big Tech in check

The questions at Wednesday's Capitol Hill hearing of four of the most powerful tech CEOs will be focused on the moguls. But lawmakers also have plenty to prove.

Congress has at times stumbled when facing off against the massive power of Silicon Valley's online giants, with some officials even seeming befuddled by the complexities of how they operate — from one senator asking Mark Zuckerberg how Facebook makes money to Google's Sundar Pichai having to explain to House members that the company doesn't make iPhones.

This hearing is their chance to show that era is over — that Capitol Hill is ready to pin the tech moguls for answers and that the industry can't charm or outsmart its way out of a serious investigation. Some of the world's most powerful companies stand accused of unfairly stifling smaller rivals and lawmakers say they are determined to hold them to account.

Hitting that goal will require legislators to prove they've learned how to dissect each behemoth's vast but distinct business empires, and lawmakers say they're hoping to do so while avoiding the partisan squabbles that have muddied other hearings with top tech executives. That's all while overcoming new challenges posed by the Covid-19 pandemic, which has pushed the blockbuster session into the CEOs' home turf: online.

Members of the House Judiciary antitrust subcommittee will grill Facebook's Zuckerberg, Google's Pichai, Amazon's Jeff Bezos and Apple's Tim Cook in a largely virtual hearing, with all four CEOs and even some lawmakers set to appear through videoconferencing. It's a format that could make it even harder to squeeze the tech moguls for answers.

Still, it's an unmatched opportunity for the House. It's the first time the four CEOs will testify jointly before Congress, and the first-ever testimony by Bezos, the world's richest person. And the session comes as regulators around the globe are ratcheting up investigations into the companies' treatment of competitors.

Those close to hearing say Wednesday's session could unearth crucial new information about each companies' business practices and go a long way toward holding the companies accountable for their business practices — if lawmakers don't lose sight of the goal, that is.

"If the committee members are sharp and hold these CEOs to account, then I do think for the American public it illustrates what it looks like when members of Congress are actually willing to govern," said Stacy Mitchell, co-director for the Institute for Local Self-Reliance, a group advocates against market consolidation.

The hearing, the sixth held by Judiciary as part of a sweeping probe into competition in the tech sector, could inform future legislation to update U.S. antitrust laws in a way that curtails the conduct of online titans like Amazon, Google, Facebook and Apple.

But Congress has struggled in past hearings. When Zuckerberg first testified at the height of the Cambridge Analytica scandal in 2018, lawmakers were widely mocked for exchanges that at times exposed a basic lack of knowledge about how tech companies work, including one in which the mogul explained that Facebook is free because it runs ads.

"In the past when tech company CEOs have testified the popular review of those hearings has not been positive for lawmakers," said Duke University researcher Matt Perault, who testified before House antitrust last year on behalf of Facebook, where he served as director of public policy. "Often it seems like they don't have the kind of understanding of the products and business models that most Americans do."

And even when lawmakers do their homework, hearings with the tech leaders often lost direction, with lawmakers asking questions far afield of their purported purpose and getting caught up in partisan feuding. They've sometimes jumped from topic to topic for hours, with questions on everything from cryptocurrency to data privacy to hate speech and allegations of bias. And when Pichai last appeared before the House Judiciary Committee, then under GOP control, Democrats and Republicans bitterly clashed over allegations the company stifles conservative views. (Google and other major platforms deny the charges).

This time has the potential to be different. The hearing is the culmination of the Democratic-led subcommittee's investigation into competition online, which has included hundreds of hours of meetings and calls and the collection of over 1.3 million documents, according to senior Judiciary aides. That makes the members of the 15-person panel set to question the CEOs uniquely prepared for the challenge, according to Gene Kimmelman, senior adviser for consumer

group Public Knowledge.

"We've seen in the past high-profile hearings with CEOs that are just one-offs — that's not what this is," said Kimmelman, who served in the Justice Department's antitrust unit under the Obama administration. "This is the culmination of many hearings, many interviews, thousands of hours of work by the staff and engagement with the members."

Officials are also hoping to keep the hearing from straying too far off course. Democratic lawmakers and senior House Judiciary aides say they expect Wednesday's session to have a needle-like focus on the competitive concerns posed by the companies, the central premise of the hearing.

"I believe that it will be largely tethered to the antitrust concerns because that is the purpose of this committee's investigation, it is the driving purpose behind the hearing," said Rep. Joe Neguse (D-Colo.), vice chair of the House Judiciary antitrust subcommittee, the 15-member panel hosting the session.

But Republicans say they are preparing for a wholly different kind of hearing: a free-wheeling event where lawmakers air their grievances on everything from competition to online misinformation and allegations of an anti-conservative bias in Silicon Valley.

Ahead of the hearing, Republican staffers on the Judiciary Committee urged lawmakers to make the bias allegations a focal point of the session, according to a memo obtained by POLITICO. And they suggested that proposing legislation to update U.S. antitrust law based off of the session's findings would be "premature" — dealing a blow to the prospects of a bipartisan bill emerging out of the investigation.

GOP Rep. Ken Buck of Colorado said while he is planning to press the CEOs on whether their acquisitions or their platforms stifle competition, he expects other lawmakers to fire off questions on a wide range of fronts, including the bias charges.

"I think you will see a free-for-all," Buck said.

Rep. Kelly Armstrong (R-N.D.) said he anticipates Republicans will hone in particularly on Facebook and Google over accusations they stifle viewpoints on the right. Armstrong said those allegations are pressing "given how much influence they have over the general public coming into the election."

Some critics of the tech giants have voiced concern that raising issues like allegations of bias could dilute the hearing. Others say it's par for the course on Capitol Hill.

"I've never seen a hearing not wander a bit astray," said Kimmelman. "Every lawmaker has a different angle on these things and different pet issues, but I do believe there is a desire to make sure at the very least they dot all the i's and cross all the t's on antitrust and competition concerns."

To do that, lawmakers will need to pepper all four chief executives with exacting questions.

Rep. Pramila Jayapal (D-Wash.), another member of the subcommittee, said one strategy lawmakers plan to take Wednesday is to focus on issues that cut across the tech giants.

“I think they can all be assured they will get a lot of love, each one of them,” she said. “We do intend to split our time and talk about each one of them because I do think that there are some common fact-patterns that have emerged across companies in terms of anti-competitive behavior.”

Jayapal said one such area where lawmakers share concern about all four companies is their ability to box out competitors with the vast troves of consumer data they collect. Another, she said, is their ability to deploy “copy, acquire, kill” strategies to duplicate, buy out or otherwise neutralize budding rivals.

But the largely virtual format of the hearing could make it harder for lawmakers to come out on top in those exchanges, according to Daniel Schuman, policy director at the left-leaning advocacy group Demand Progress.

“In a circumstance where you’re going back and forth with the witness where they can pretend not to hear you, where you talk over each other, where you have a little bit of the technological confusion that goes on top of the interaction anyway ... it becomes more likely that the member can lose a little bit more control of the interaction,” said Schuman, who has pushed for Congress to bolster its virtual offerings.

And the virtual format could lessen the overall impact of the hearing, according to Buck.

“It’s unfortunate that we don’t have them in person,” said the GOP lawmaker. “I think it would be a much more informative and impactful hearing if we were dealing with this in person.”

Even if lawmakers’ stick the landing on their questions, tech industry officials remain skeptical anything new will come out of them.

Carl Szabo, vice president and general counsel of tech trade group NetChoice, said he’s “very curious to know what questions will be asked that haven’t been answered.” Szabo, whose tech trade group counts Facebook, Google and Amazon as members, cited the fact that the companies have already turned over scores of documents to the committee.

He added, “What this is ultimately going to do is be dragging tech CEOs before Congress and berate them in front of the cameras, not looking necessarily for answers to antitrust, but looking for publicity.”

But even the act of pressing the CEOs for answers on the record could mark a victory for lawmakers, according to Mitchell, regardless of whether or not the CEOs take the bait.

“I do think that there’s actual real information to be gleamed, and if Bezos and the other CEOs try to dodge those questions and evade and obfuscate, it adds to the picture of these companies believing that they are in charge and that they don’t have to answer to anyone,” she said.

Politico Pro - Why Amazon may have the most to lose from tech's Hill showdown

Jeff Bezos has spent the past five years trying to become a fixture in Washington — hiring President Barack Obama's press chief, flooding the town with lobbying cash, buying The Washington Post, and even choosing a spot along the Potomac River for Amazon's second headquarters.

But all that money isn't likely to buy Bezos a break on Wednesday.

Bezos is due to take his place — virtually — alongside Facebook's Mark Zuckerberg, Apple's Tim Cook and Google's Sundar Pichai as four of the tech industry's most powerful chief executives face a grilling from lawmakers. And Bezos' Everything Store, the \$1.5 trillion corporation that he started in his garage as an online bookstore 25 years ago, may have the most to lose as he makes his first-ever appearance before a skeptical Congress.

All four companies face serious problems: Google's dominance over markets like search and online advertising has brought it more than \$9 billion in fines worldwide and an expected antitrust suit from the U.S. Justice Department. Apple faces two EU probes for the way it wields its App Store and mobile payments service against rivals, and Facebook is the subject of antitrust probes and a worldwide corporate advertising boycott over its approach to regulating hate speech and political deception.

Amazon, though, has steadily attracted ire from both the right and left in recent years for its uncommon influence over the way much of America lives.

It wasn't always this way. Amazon has spent years watching — or even prodding — from the sidelines as regulators in the U.S. and Europe went after America's other powerful tech companies.

When the Obama administration sued Apple over allegations that the iPad-maker had conspired to fix the price of ebooks, Amazon executives were among the key witnesses for the government. In the U.S., prominent advocates for antitrust suits against Google and Facebook have included a Yale economist who also works as a paid Amazon consultant. Over the past decade, as fines and other penalties piled up for the three fellow tech giants, Amazon stood apart, portraying itself as a champion of consumers and low prices.

But now, critics are targeting Amazon over its ability to avoid sales taxes or federal income taxes, its treatment of warehouse workers amid the pandemic, and the availability of counterfeit goods and harmful products on its retail platform. President Donald Trump has accused it of ripping off the U.S. Postal Service and driving brick-and-mortar retailers out of business, while liberals like Rep. Alexandria Ocasio-Cortez (D-N.Y.) have complained about the state and local economic incentives Amazon sought while soliciting proposals for its new second headquarters.

Bezos' separate ownership of The Washington Post has added to Trump's ire, while his status as

the world's richest person — and owner of D.C.'s largest private residence — has made him a foil for critics of America's economic inequality.

Even more than the other businesses in Wednesday's spotlight, Bezos' companies influence what and where people buy food and other essentials; the news, books and websites they read; the television and movies they watch; the advertising they see online. Amazon is the United States' second-largest private employer with 590,000 workers, and a leader in cloud computing and next-generation technologies including artificial intelligence, drones and self-driving cars.

None of this is an accident, said Matt Stoller, an anti-monopoly researcher and one of the most vocal detractors of the big tech companies. Stoller, director of research at the American Economic Liberties Project, co-wrote a report last week that seeks to chronicle ways in which Amazon has used loopholes in the law — from tax to product liability to antitrust to the company's relationship with the Postal Service — to benefit its business.

"Bezos didn't luck into this," said Stoller, whose recent book "Goliath" explores how monopolies have influenced American politics and democracy. "He was deliberate in taking advantage of legal gaps."

Still, even some of Amazon's biggest critics acknowledge that its enormous wealth and power point to a problem that is bigger than just the company.

"With all his billions, Jeff is [a] rounding error in the big picture. He's not the problem; the legal/regulatory power structures that enable him and his peers is," Tim Bray, a former vice president for Amazon, said in a blog post on Monday. Bray, an executive with Amazon's cloud computing service, publicly quit the company in May over the company's treatment of warehouse workers.

Amazon declined to offer responses to its critics' arguments or comment on how it plans to address them at the hearing. In his prepared testimony, Bezos acknowledges the company's size merits Congress' inquiry.

"I believe Amazon should be scrutinized," Bezos said in his prepared remarks. "We should scrutinize all large institutions, whether they're companies, government agencies, or non-profits. Our responsibility is to make sure we pass such scrutiny with flying colors."

'Who is the sovereign?'

The worldwide scrutiny for Amazon has accelerated in the past year.

Last summer, antitrust authorities in the U.S. and EU began investigating Amazon over allegations it abuses its dominance in online retail by using data collected from sellers on its marketplace to favor its own products. State attorneys general in California and Washington, where Amazon is located, have also opened probes. Last week, Italy's competition authority raided Amazon's offices in the country while investigating an agreement between the e-commerce giant and Apple over the sale of Beats headphones and other products.

At Wednesday's hearing, members of the House Judiciary antitrust subcommittee are expected to delve into many of those allegations, as well as whether an Amazon executive misled the panel last summer in his testimony about whether the company uses the data it obtains from third-party sellers. Rep. Pramila Jayapal, a Democrat whose Seattle district is home to Amazon's headquarters, said she plans to ask about the discrepancy — but also about the broader issue of the company's role as both owner of the marketplace and a seller within it.

"Amazon has achieved such enormous dominance in the marketplace," said Jayapal, expressing concern that Congress is lagging behind European policymakers in understanding competition in tech markets. "We desperately need to catch up in terms of our regulation, in terms of our enforcement, and even just in terms of the conversation around what the implications are for a consumer of monopolistic antitrust behavior."

Earlier this year, the European Commission outlined plans for a new regulatory approach to digital "gatekeepers" — the large tech platforms like Amazon that control how businesses interact with consumers. The bloc opened a public comment period in June, with the hopes of adopting regulations by the end of the year.

Shaoul Sussman, a lawyer who has researched the company for anti-monopoly group the Institute for Local Self-Reliance — an Amazon critic — said he expects that most questions to Bezos will involve specifics of Amazon's marketplace. But Sussman said he hopes lawmakers will focus on the larger picture of Amazon's business strategy and whether the U.S. should rethink how technology markets are regulated.

"There's a general question here about who is ruling who. Who is the sovereign and who dictates the rules of the game?" said Sussman, who represented an Amazon seller who offered evidence in the congressional probe. "Will Congress reassert itself over these corporations or will these corporations dictate the rules of the game to Congress?"

Amazon lobbies up

Although the company has existed since 1995, Amazon's entrance to Washington was much more recent. In 2015, Amazon hired former White House press secretary Jay Carney as vice president for corporate affairs. That year, the company's lobbying expenditures also skyrocketed to \$9.4 million, up from \$4.9 million in 2014. The money Amazon has spent on lobbying has risen every year since.

More recently, Amazon has focused on staffing up on antitrust. Nate Sutton, the executive who testified before the House Judiciary panel last summer, joined the company at the end of 2016 after almost a decade in the Justice Department's antitrust division. Two years later, the company added Bryson Bachman, a senior DOJ antitrust official at the beginning of the Trump administration who also formerly worked for Sen. Mike Lee (R-Utah), chairman of the Senate Judiciary antitrust subcommittee.

This year alone, the company has added three attorneys to its legal team from the Federal Trade Commission — which is also investigating the company for antitrust violations, though none of the lawyers were directly involved in the probe — and another veteran of the DOJ's antitrust

division.

Another prominent antitrust figure supporting Amazon is Fiona Scott Morton, a top antitrust economist for the Obama-era DOJ, who began consulting for the company on antitrust economics last year. She has recently faced criticism for not clearly disclosing her ties to Amazon and Apple while publicly advocating for antitrust suits against Google and Facebook.

On Thursday, Institute for Local Self-Reliance co-founder Stacy Mitchell resigned an unpaid fellowship from Yale's Thurman Arnold Project, a research initiative on antitrust in tech where Scott Morton is the director, because of the economist's work for Amazon.

Scott Morton said she has done economics consulting work on antitrust for Amazon and others "when I am comfortable there is not a law being violated." That work helps inform her research and views that the U.S. needs more regulation in digital markets and to revamp the antitrust laws, she said. Scott Morton has recused from research into Apple or Amazon for the Thurman Arnold Project, letting others at Yale oversee that work, to avoid perceived conflicts of interest.

Can low prices harm consumers?

Amazon's defense on alleged antitrust abuses includes a common argument by the tech giants: It maintains it isn't all that giant after all.

Specifically, Amazon notes that its share of the global retail market is small; it closed down most operations in China last year because of stiff competition from Alibaba. The research firm Emarketer, though, estimates that Amazon commands about 37 percent of U.S. online retail sales. The next closest competitor is Walmart, which has an estimated 5 percent share.

A group of unions, which earlier this year urged the FTC to probe Amazon's impact on American workers, merchants and consumers, argued in a letter last week that the e-commerce giant controls even more of the market in specific product categories, such as consumer electronics, where it has a 45 percent share of U.S. online sales. That trend may only increase as consumers move more of their shopping online because of the coronavirus, the unions said.

A large part of the reason Amazon has escaped the antitrust scrutiny of its peers relates to the company's customer-centric model. In his first letter to shareholders in 1997, Bezos pledged to "continue to focus relentlessly on our customers."

That approach meshes with decades of the United States' prevailing approach to antitrust law, which since the late 1970s has looked at tangible effects like high prices as evidence that corporate conduct or mergers are harming competition. That lens, critics argue, has led antitrust enforcers and courts to pay too little attention to less tangible values like quality or innovation.

Lina Khan — a key staffer on the House antitrust probe who will join Columbia University Law School as a professor this fall — argued in a novel 2017 legal article that Amazon has benefited from that overemphasis on low price.

“The potential harms to competition posed by Amazon’s dominance are not cognizable if we assess competition primarily through price and output,” she wrote. “Focusing on these metrics instead blinds us to the potential hazards.”

Amazon’s Bezos has always admitted he is playing a long game, Khan argued, and once the company has become dominant in an industry, it can raise prices.

Sellers who use Amazon’s platform say the company has already started to do that.

In a study released Tuesday, the Institute for Local Self-Reliance found that Amazon keeps 30 percent of each sale made by third parties who use its marketplace, up from the 19 percent it kept five years ago. Fees charged to third-party sellers brought the company about \$60 billion in 2019 — about 21 percent of Amazon’s total revenue.

While the company’s legendary levels of customer service may benefit consumers, those benefits don’t extend to third-party sellers who make use of Amazon’s marketplace, said Douglas Mrdeza, the CEO of Top Shelf Brands in Lansing, Mich. Mrdeza began selling on Amazon in 2014 after inadvertently ordering too much product for his barbershop. The company quickly grew by offering to help other companies — like Tootsie Roll, Bedhead hair products and Hatchimals toys — sell on Amazon. Over time, though, the amount the company charged for advertising and other fees began to grow, he said.

Amazon was “very promising in the beginning. But they’ve got this whole system designed where they get sellers in door, but as time goes on they squeeze every dollar you could be making out of you,” said Mrdeza, who said Top Shelf ranked among the top 50 U.S. sellers on Amazon. “We don’t see a future selling on Amazon.”

Mrdeza, who participated in a call hosted by the Institute for Local Self-Reliance with other small companies critical of Amazon, said he hoped speaking out might help other sellers on the platform.

“Sellers are the most profitable aspect of your business,” Mrdeza said. “When we have our own complaints, why aren’t the same levels of customer service being offered to us as to consumers? That’s the biggest disconnect between their public statements and what the reality is.”

Politico - Zuckerberg: Facebook has ‘more to do’ on fighting disinformation

But the CEO's prepared statement for a major House hearing also asserts that "companies aren't bad just because they are big."

“We recognize that we have a responsibility to stop bad actors from interfering with or undermining these conversations through misinformation, attempted voter suppression, or speech that is hateful or incites violence,” Zuckerberg’s statement says. “I understand the concerns people have in these areas, and we are working to address them. While we are making progress

— for example, we have dramatically improved our ability to proactively find and remove harmful content and prevent election interference — I recognize that we have more to do.”

A Facebook spokesperson declined to comment on the statement.

Civil rights activists and many Democrats have castigated Facebook for its policy of refusing to fact-check or remove deceptive posts or ads from political candidates, a stance they say benefits President Donald Trump's reelection campaign and ignores a long history of voter suppression efforts in the U.S. They have also criticized Facebook for leaving up a post earlier this year in which Trump appeared to threaten that people taking part in social justice protests might be shot.

Zuckerberg's newest comment also comes in the wake of news about a video going viral on Facebook that featured incorrect and dangerous claims about the novel coronavirus. It racked up millions of views before Facebook took it down.

On the other hand, disinformation is not the stated purpose of Wednesday's hearing. Rep. David Cicilline (D-R.I.), the chairman of the antitrust subcommittee, convened the panel to talk about competition among tech giants as the industry has consolidated.

Zuckerberg's written remarks include an implicit jab at Democrats' concerns about the emergence of tech behemoths.

“As I understand our laws, companies aren't bad just because they are big,” Zuckerberg's remarks say, echoing an earlier comment from the panel's Republicans. “Many large companies that fail to compete cease to exist. This is why we're focused on building and updating our products to give people the best possible experiences.”

Zuckerberg's opening remarks also make one reference to how the ascent of Chinese tech companies has shaped the industry.

“Although people around the world use our products, Facebook is a proudly American company,” the remarks say. “We believe in values — democracy, competition, inclusion and free expression — that the American economy was built on. Many other tech companies share these values, but there's no guarantee our values will win out.

"For example, China is building its own version of the internet focused on very different ideas, and they are exporting their vision to other countries," he added. "As Congress and other stakeholders consider how antitrust laws support competition in the U.S., I believe it's important to maintain the core values of openness and fairness that have made America's digital economy a force for empowerment and opportunity here and around the world.”

Financial Times - [Big Tech goes to Washington](#)

For the first time, the heads of Amazon, Apple, Alphabet and Facebook will testify to Congress together

This summer's box office event will be in Washington on Wednesday as the heads of Amazon, Apple, Alphabet and Facebook appear together before Congress for the first time.

The grilling is the culmination of 13 months of investigation by lawmakers into the market power of Big Tech, during which 1.3m documents were turned over, some of which may be made public.

The list of complaints is long and varied, but the criticism directed against all four companies, who together have a market value of almost \$5tn, is that they have used their lock on consumers to choke off smaller rivals' ability to compete.

Jeff Bezos, Tim Cook, Sundar Pichai and Mark Zuckerberg will testify over video link, avoiding the usual courtroom-like setting, but all four will sit for questions at the same time.

The investigation will produce a report after the hearing, which should be published before the end of the year and could form the basis of new laws to regulate Big Tech.

"The public has the right to understand how these corporations are using, or abusing, their power, as well as the right to take action to fix this problem," said one Democratic aide.

The probe has been conducted in parallel with federal investigations, with the justice department scrutinising Alphabet, the parent company of Google, and the Federal Trade Commission looking at Facebook. Both companies are also the target of investigations by several state attorneys-general.

Democratic committee aides said they wanted the congressional hearing to be "laser-focused" on antitrust issues, but the bosses are also likely to face several other political banana skins, including how they police speech online, their behaviour during the coronavirus crisis, and how they are approaching November's presidential election.

Here are the main issues facing the four companies.

Amazon & Apple

Jeff Bezos, who is testifying in front of Congress for the first time, and Tim Cook will both face the same line of questioning: Are they abusing the enormous power they have as gatekeepers of their marketplaces?

In Amazon's case, there have been a number of accusations that the company uses data it gathers from its platforms about successful products and then uses that information to develop its own competing products, such as the Amazon Basics line.

Amazon's associate general counsel, Nate Sutton, denied this practice under oath in front of the committee last year. But the committee demanded Mr Bezos answer more questions following reporting in the Wall Street Journal, which also prompted Amazon to open an internal investigation.

Other issues may include whether Amazon encourages companies to use its own delivery services for their goods, rather than FedEx or the US Post Office, by promoting products fulfilled by Amazon higher up its search rankings.

Apple is also fighting accusations, particularly in Europe, that it is abusing its position as a gatekeeper. App developers have complained that they are charged a slice of their sales to access iPhone users through Apple's app store, but then find themselves in competition with Apple's own apps.

Only Apple can approve apps for distribution, and Apple is the sole referee in any appeal. It is unclear how apps in the store are ranked, and some of Apple's pre-installed apps cannot be deleted from phones. Apple has also frequently produced its own versions of successful independent apps.

"We call this 'a thousand different cuts' — it's not that there's a single tactic that Apple uses, there are 1,000 different things Apple does to control the user experience," said Dan Volach, co-founder of Blix, a software developer that sued Apple last year alleging patent infringement and unlawful monopolisation.

As well as competition issues, expect Mr Bezos to be asked about how many of its employees have fallen sick in its warehouses to coronavirus, while Mr Cook is likely to face questions about why Apple continues to restrict content and software in China, and now possibly Hong Kong.

Facebook & Alphabet

Facebook and Alphabet both face accusations that they have grown utterly dominant in social media and online search by squeezing out, or buying, rivals.

After the purchases of WhatsApp and Instagram, Mark Zuckerberg's only real competition in social media comes from China, where the banning of his apps and websites have created space for local tech giants to emerge.

Mr Zuckerberg is likely to respond that regulators cleared the two acquisitions at the time, and that competition exists in the form of YouTube and Snap. He may even argue that curbing Facebook's power now would gift an advantage to fast-growing Chinese rivals, such as TikTok.

There is no shortage of issues for Congress to dig into when it comes to Alphabet. During the investigation, it has heard from companies as varied as Sonos, the speaker maker, that claims the search company stole its intellectual property, and Basecamp, the software maker that accused Google of being a "protection racket" that forces other businesses to pay a high price to reach its customers.

High up on the list of issues in the federal and states investigations has been Google's dominance of online advertising, and whether it unfairly steers business to its own advertising marketplaces.

But if there is one thing that has united many of the company's critics, it is the way that Google's

search engine results put the company's own services, like YouTube, front and centre.

Meanwhile, expect both Facebook and Alphabet to be attacked by Republicans for being politically biased against them, and by Democrats for not doing enough to curb hate speech.

Stratechery - The Antitrust Hearing, The Role of Congress, CEO Questions

Good morning,

First off, I mislabeled a few "Tocks" as "Ticks" in the table in yesterday's Daily Update (the node sizes were right, though); like Apple, I guess I didn't have patience for Intel's delays.

Secondly, I do plan on taking the next couple of days off of Stratechery as planned, and be back next week with analysis of the antitrust hearing; one interesting dynamic is that all four of the companies represented in the hearing are announcing earnings on Thursday. Expect a lot of headlines contrasting those two events.

On to the update:

The Antitrust Hearing

From the Washington Post:

Congress brought the country's big banks to heel after the financial crisis, cowed a tobacco industry for imperiling public health and forced airline leaders to atone for years of treating their passengers poorly. Now, lawmakers are set to turn their attention to technology, channeling long-simmering frustrations with Amazon, Apple, Facebook and Google into a high-profile hearing some Democrats and Republicans hope will usher in sweeping changes throughout Silicon Valley.

This is a remarkable bit of framing for a (checks link) news article. It is taken as a given that the big tech companies are akin to big banks after the financial crisis, the tobacco industry, and airlines — no wonder there are "long-simmering frustrations"! People must hate Apple, Google, Amazon, and Facebook!

Needless to say, this doesn't match reality; every year The Verge conducts a tech survey and the results speak for themselves:

.

Even Facebook, after four years of being blamed or scapegoated for both the publishing industry's financial struggles and the election of Donald Trump — choose your own adventure! — has only managed a 29% unfavorability rating:

.

Moreover, this survey was done in December, well before the tech industry proved itself to be the only institution in the United States that actually performed well during the coronavirus crisis.

The Role of Congress

The real problem with this framing by the Washington Post — which I chose not to pick on one article or one publication, but rather because I do think it is representative of a lot of the discourse about tech — is that it misses both the point of this hearing, and of the real role that Congress needs to play when it comes to technology.

Start with the committee, specifically, the House antitrust subcommittee. This is, or at least should be, an article about competition, not privacy or bias or election interference; that is not to say that those things aren't impacted by competition, because they are, but generally speaking the idea is that more competition should address harms — and that increased regulation, in contrast, reduces competition. This tradeoff ought to be at the forefront of Congress's thinking as they consider tech company regulation.

At the same time, this is the first of three reasons as to why I am glad this hearing is taking place. Figuring out whether and to what extent to regulate technology is going to require negotiating a huge number of trade-offs between things like privacy, competition, national security, etc. Only Congress is properly positioned to make those trade-offs.

Second, as I have been writing for years now, our current antitrust laws, created as they were for the analog world where market power came from controlling supply, are simply unsuitable for the digital world where market power comes from controlling demand. The European Commission's struggle to regulate Google is a perfect example; from a Daily Update last December:

A common point made by regulators [in Brussels] is that it doesn't matter that end users could theoretically use a different general purpose search engine, or vertical search engine, or even go to a website directly. The reality is that the vast majority of people use Google, therefore Google is a monopoly and should be held liable for the harms I described yesterday: vertical foreclosure, rent-seeking, tying, self-dealing, etc.

The problem, though, is that the only possible outcome in this sort of environment, where Google's monopoly is a product of user choice and not structural factors, is exactly what everyone is so bummed out about: Google pays a big fine, and nothing changes. After all, if there are no structural problems, what structural remedies are available? It sometimes seems the only possible solution is to start regulating product design: compel Google to serve ten blue links forever. It's very difficult, though, to see how that is in any way good for end users.

This gets at why the Aggregator/Platform distinction is so important. If regulators want to not only be effective but also actually improve consumer outcomes it actually does matter how tech companies gain and keep market power; rules, contracts, and APIs deserve scrutiny (which is why I think the European Commission is right about Android, for example), but product improvements where competition is yes, only a click away, not so much, in part

because remedies probably aren't going to work anyways.

This, to be clear, does not mean one should throw one's hands up and declare that nothing can be done; the exact opposite, in fact: it is Congress that needs to take the lead and pass new laws, as opposed to relying on the FTC or the courts. I concluded in *A Framework for Regulating Competition on the Internet*:

Ideally, there would be stricter adherence to better rules, instead of finger-crossing that Brussels gets it right. That, though, likely requires new laws. Indeed, while that seems like a slog, it should, in my estimation, be the focus of those interested in a future where we direct tech's innovation towards making a larger pie for everyone, as opposed to cutting off slices because it makes us feel better, even if only temporarily.

This is point two: effective tech regulation requires new laws, not the haphazard application of old ones, so it is good that this hearing is happening in Congress.

The final point goes back to the opening: tech is popular, has proven to be indispensable over the last six months in particular, and is a critical national security concern. To that end, the decision about how to regulate the industry should absolutely be made in the most democratic of our institutions, not the executive branch, not the courts, not the press, not Twitter, and not Silicon Valley. All of those have a role to play, and opinions to express, but it is time for us collectively, via our representatives, to decide what role we wish tech to play, and while it is tempting to dismiss this hearing as a PR stunt, I for one am happy it is happening, and hope for more.

CEO Questions

I in some respects wrote a primer for this hearing in June 2019 entitled *Tech and Antitrust*. From the introduction:

I should state an obligatory caveat: I am not a lawyer or economist, which is relevant given that U.S. antitrust cases are adjudicated in court and largely driven by expert testimony. That reality, though, only underscores the point: any case against these four companies (with possibly one exception, which I will get to momentarily), will be extremely difficult to win. To explain why, it is worth examining all four companies with regards to:

- Whether or not they have a durable monopoly
- What anticompetitive behavior they are engaging in
- What remedies are available
- What will happen in the future with and without regulator intervention

In addition, for comparison's sake, I will evaluate late 1990's Microsoft, the last major tech antitrust case in the United States, along the same dimensions.

That article was about potential antitrust investigations by the Justice Department and the FTC;

to that end, I was primarily focused on the laws as they are, not, as I discussed in the last section, the fact that we really need new laws.

One of the takeaways from that article is the fact that the issues raised by each of these four companies are very different (and yes, as I noted last week, Microsoft should be here). To that end, I thought it would be interesting to think about what questions I would ask each of the CEOs were I on the committee — and to be clear, not all of these questions are being antagonistic (to take one example, I actually believe that Apple is justified in not allowing side-loading); I do think they deserve greater scrutiny though. In order of market cap:

Tim Cook, Apple

—Do you believe that Apple has been adequately compensated for its role in making smartphones the most indispensable devices in people's lives? Does Apple deserve more revenue from App developers, including those offering free apps?

— Why doesn't Apple simply charge developers directly for the cost of running the App Store? Has Apple ever considered offering its payment services on other platforms? If not, why not?

— Last week Apple released a study defending the App Store's 30% commission, comparing it to both other App Stores and also bricks-and-mortar retail. Do you believe that direct-to-consumer sales over the Internet are a viable channel as well, and if so, why were they largely ignored in your study?

— Why should the App Store be the only possible way to install apps on an iPhone? Why should apps installed via the App Store not be allowed to link to a web page if that web page allows users to sign up for a paid service?

— Does Apple Music or Apple Books pay a 30% charge on every purchase? If so, how is that charge accounted for? If not, why would Spotify and Kindle have to pay Apple 30% if they offered in-app purchase? And why can't Spotify and Kindle link to their web pages for purchases?

— iOS 14 will allow users to change the default web browser (but not rendering engine) and default email client. Why can't users change the default SMS client?

— Why does Apple allow WeChat to have a store-like interface for mini-apps, but does not allow the same for Facebook, Microsoft, Steam, and other U.S. companies?

Jeff Bezos, Amazon

— Does Amazon require most-favored nation clauses with its suppliers? If not, does it implicitly enforce them through forced renegotiations?

— How does Amazon police counterfeit products on its site? Does its approach to counterfeits change based on its relationship with a particular brand?

- Does Amazon use individual seller data to inform what products it sells under private labels?
- Does Amazon use individual AWS data to inform what services it decides to build for AWS?
- Has Amazon ever accessed AWS data on anything but an aggregate level? What safeguards are in place to ensure that never happens? Are those safeguards stronger than the safeguards Amazon has about accessing individual seller data on the Amazon marketplace? How so, and why?

Sundar Pichai, Google

- Larry Page once said that Google's goal was to get users off the site as soon as possible and to their destination; now nearly half of a typical results page is devoted to Google-centric information (answer boxes, ads, etc.). Has Google's goal changed? If so, why? Does Google take up more space in the results for topics that generate more revenue (like travel)?
- Did Google see any decrease in usage after adding a third ad to mobile search results? What about after adding a fourth ad?
- Local search on Google Maps includes a large number of reviews and place information, but those reviews and place information are not indexed by Google Search. Why? Does Google believe that their reviews and place information is competitive with 3rd-party providers like Trip Advisor?
- Why has Google shifted away from paid results for Shopping?
- How much does Google pay Apple to be the default search engine on iOS? Why do Android manufacturers have to make Google the default search engine in order to gain access to the Play Store?
- Why did Google end last-look bidding on its ad exchanges? What percentage of bids does Google win on its own ad exchanges?
- Does Google leverage data from Android and Chrome while bidding on its ad exchanges? Is that data available to third-parties?

Mark Zuckerberg, Facebook

- Why did you believe that Instagram was worth \$1 billion in 2012?
- Why has Facebook pulled back from the Facebook Audience Network and 3rd-party advertising?
- Why is Facebook attempting to make messaging between its apps interoperable? What is the motivation behind Facebook Shops?
- What is the trend in Facebook's price-per-ad relative time the amount of inventory on

Facebook? Does Facebook have pricing power?

— Does Facebook believe that Apple and Google are uncompetitively restricting Facebook's ability to compete on iOS and Android? How so?

The fact that Apple and Google have more questions than Amazon and Facebook is not an accident: as I detailed in that article they have much more significant antitrust issues. It will be interesting to see if that fact is recognized by the committee. I am also interested to what extent these CEOs address each other; if any one CEO does make statements about another company, I would bet on Tim Cook attempting to raise questions about privacy and data collection, and thus focus more attention on Google and Facebook. Remember, though, this is the antitrust subcommittee — I hope committee members stay focused on competition issues.

Finally, if any of you wish to send this list of questions to your Congressperson, please feel free!

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